

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

ISAAC RIVERA-JIMENEZ

PLAINTIFF

VS.

CIVIL ACTION NO. 3:16cv406-DPJ-FKB

UNITED STATES OF
AMERICA and RANKIN
COUNTY, MISSISSIPPI
SHERIFF'S DEPARTMENT

DEFENDANTS

REPORT AND RECOMMENDATION

This is an action filed by a federal prisoner, Isaac Rivera-Jimenez, pursuant to the Federal Tort Claims Act and the Administrative Procedures Act. In it, Plaintiff seeks the return of \$442,190 in cash that was the subject of a forfeiture proceeding. Presently before the Court is the motion to dismiss filed by the United States of America (Defendant).¹ Plaintiff has filed no response. The undersigned recommends that the motion be granted.

In his complaint, Plaintiff alleges that the money was seized and forfeited without adequate notice to him. Defendant's motion and the attached affidavits clarify that the money was forfeited in a state proceeding after it was seized from Plaintiff's car following a 2004 traffic stop in Rankin County, Mississippi. The Rankin County Sheriff's Department maintained custody of the cash and forfeited the money administratively. No federal forfeiture proceedings were ever initiated. Thus, this court is without subject matter jurisdiction over Plaintiff's claims.

¹ Defendant Rankin County, Mississippi, Sheriff's Department was previously dismissed by order at docket no. [10].

Accordingly, the undersigned recommends that Defendant's motion be granted and this action dismissed with prejudice. The parties are hereby notified that failure to file written objections to the proposed findings, conclusions, and recommendation contained within this report and recommendation within fourteen (14) days after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the proposed factual findings and legal conclusions accepted by the district court. 28 U.S.C. § 636; Fed. R. Civ. P. 72(b); *Douglass v. United Services Automobile Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996).

Respectfully submitted, this the 3rd day of May, 2017.

s/ F. Keith Ball
United States Magistrate Judge